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SERVICE DATE - MAY 17, 2001

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34021]

Central Michigan Railway Company and CSX Transportation, Inc.–Joint Relocation
Project Exemption–in Saginaw, MI

Central Michigan Railway Company (CMGN) has filed a notice of exemption under 49 CFR 1180.2(d)(5) to relocate its rail operations within the City of Saginaw, MI, from a portion of its line to a portion of line owned by CSX Transportation, Inc.(CSXT). CMGN will operate over the portion of the line owned by CSXT by overhead trackage rights. CMGN states that the transaction will be consummated by September 1, 2001, but not before April 26, 2001, the effective date of the exemption.¹

CMGN operates over an approximately 1.92-mile rail line entirely in Saginaw, from CMGN milepost 0.07, at or near the Denmark Switch, to CMGN milepost 1.99, at or near Hoyt Diamond, MI (subject line). CMGN currently connects with CSXT at milepost BB 07, at or near Mershon Switch.

Under the joint relocation project, CMGN and CSXT propose the following transaction: (1) CMGN will acquire overhead trackage rights over approximately 2.9 miles of rail line owned by CSXT from milepost BBO 7 at or near the Mershon Switch

¹ An unredacted version of the trackage rights agreement between CMGN and CSXT, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed with the notice of exemption under seal along with a motion for a protective order. A protective order was served on May 2, 2001.

east to milepost CB 1 near the Saginaw Yard (a distance of approximately 1.7 miles), then from milepost CB 1 southeast to milepost CC 2.2, at or near the Hoyt Diamond (a distance of approximately 1.2 miles), at which point CMGN would connect with its main line;² (2) CMGN will abandon its operations from CMGN milepost 0.07 at or near the Denmark Switch to CMGN milepost 1.99 at or near the Hoyt Diamond (the subject line); and (3) CMGN will construct a new public team track facility, approximately 570 feet long beginning at CSXT milepost CC 2.1 on CSXT's line and connecting with CMGN at approximately CMGN's milepost 2.04.

The proposed joint relocation project will not disrupt service to shippers.³ Its purpose is to eliminate approximately 22 grade crossings (8 of which cross major system routes) pursuant to a highway improvement project funded by CMGN, CSXT, the Michigan Department of Transportation, the City of Saginaw and TEA-21 Local Safety Program funds. Thus, it will enhance public safety by reducing the risk of crossing accidents. The notice further states that CSXT's trackage rights provides an alternate route by which CMGN can access its own rail line. There will be no expansion into new territory; nor will there be a change in the existing competitive situation.

² CMGN's use of the trackage rights would make its rail operations more efficient. It would further allow CMGN to access its shippers east of the Hoyt Diamond by having a more direct route between the Saginaw Yard and the Hoyt Diamond after it interchanges with CSXT.

³ By letter dated April 11, 2001, Self-Serve Lumber, the only shipper on the line fully supports the proposed relocation and incidental abandonment by CMGN.

The Board will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into a new territory. See City of Detroit v. Canadian National Ry. Co., et al., 9 I.C.C.2d 1208 (1993), aff'd sub nom., Detroit/Wayne County Port Authority v. ICC, 59 F.3d 1314 (D.C. Cir. 1995). Line relocation projects may embrace trackage rights transactions such as the one involved here. See D.T.&I.R.--Trackage Rights, 363 I.C.C. 878 (1981). Under these standards, the incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.--Trackage Rights--BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.--Lease and Operate, 360 I.C.C. 653 (1980).

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34021, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a

copy of each pleading must be served on Rose-Michele Weinryb, Weiner Brodsky Sidman Kider PC, 1300 19th Street, N.W., Fifth Floor, Washington, DC 20036-1609.

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Decided: May 10, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary